

**Internal Revenue Service, Treasury**

**§ 5c.103-3**

to the computation under section 1341(a)(5):

(i) The tax for the taxable year without the deduction described in section 1341(a)(2);

(ii) The tax for each prior taxable year (determined before adjustment under section 1341) for which a decrease in tax is computed under section 1341(a)(5)(B);

(iii) The decrease in tax for each prior taxable year computed under section 1341(a)(5)(B), including any decrease resulting from a net operating loss or capital loss described in section 1341(b)(4)(B); and

(iv) The amount treated as an overpayment of tax under section 1341(b)(1).

(e) *Time and place for filing.* The application must be filed no earlier than the date of filing the return for the taxable year of restoration and no later than the date 12 months from the last day of that taxable year. The application must be filed with the Internal Revenue Service Center (or other office) where the taxpayer filed its return for the taxable year of restoration.

(f) *Not a claim for credit or refund.* An application for tentative refund under section 6411(d) is not a claim for credit or refund. The principles of paragraph (b)(2) of §1.6411-1 apply in determining the effect of an application for a tentative refund. For example, the filing of an application for tentative refund under section 6411(d) is not a claim for credit or refund in determining whether a claim for credit or refund was timely filed.

[T.D. 7672, 45 FR 8295, Feb. 7, 1980; 45 FR 17138, Mar. 18, 1980]

**PART 5c—TEMPORARY INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981**

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- 5c.44F-1 Leases and qualified research expenses.
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- 5c.168(f)(8)-1 Special rules for leases.
- 5c.168(f)(8)-2 Election to characterize transaction as a section 168(f)(8) lease.
- 5c.168(f)(8)-3 Requirements for lessor.
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- 5c.168(f)(8)-5 Term of lease.
- 5c.168(f)(8)-6 Qualified leased property.
- 5c.168(f)(8)-7 Reporting of income, deductions and investment tax credit; at risk rules.
- 5c.168(f)(8)-8 Loss of section 168(f)(8) protection; recapture.
- 5c.168(f)(8)-9 Pass-through leases—transfer of only the investment tax credit to a party other than the ultimate user of the property. [Reserved]
- 5c.168(f)(8)-10 Leases between related parties. [Reserved]
- 5c.168(f)(8)-11 Consolidated returns. [Reserved]
- 5c.1305-1 Special income averaging rules for taxpayers otherwise required to compute tax in accordance with §5c.1256-3.

AUTHORITY: 26 U.S.C. 168(f)(8)(G) and 7805.

SOURCE: T.D. 7791, 46 FR 51907, Oct. 23, 1981, unless otherwise noted.

**§ 5c.44F-1 Leases and qualified research expenses.**

For purposes of section 44F(b)(2)(A)(iii), the determination of whether any amount is paid or incurred to another person for the right to use personal property in the conduct of qualified research shall be made without regard to the characterization of the transaction as a lease under section 168(f)(8). See §5c.168(f)(8)-1(b).

**§ 5c.103-1 Leases and capital expenditures.**

For purposes of section 103(b)(6)(D) and §1.103-10(b)(2)(iv)(b), the determination of whether property is leased and whether property is of a type that is ordinarily subject to a lease shall be made without regard to the characterization of the transaction as a lease under section 168(f)(8).

**§ 5c.103-2 Leases and industrial development bonds.**

For purposes of section 103(b)(2), the determination of whether an obligation constitutes an industrial development bond shall be made without regard to the characterization of the transaction as a lease under section 168(f)(8).

[T.D. 7800, 46 FR 63257, Dec. 31, 1981]

**§ 5c.103-3 Leases and arbitrage.**

In the case of a sale and leaseback transaction qualifying under section